

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOSEPH GIVENS AND MONISHA GIVENS, §
§
Plaintiffs, §
§
v. § Case No. 5:22-cv-00220
§
T-MOBILE USA, INC., §
§
Defendant. §

DEFENDANT'S NOTICE OF REMOVAL

Defendant T-Mobile USA, Inc. (“T-Mobile”) files its Notice of Removal of this action from the 224th Judicial District Court of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division, the District and Division encompassing the place where the state court is located. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446. In support hereof, T-Mobile shows this Court as follows:

1. On February 11, 2022, Plaintiffs Joseph Givens and Monisha Givens (collectively, “Plaintiffs”) filed an Original Petition (the “Petition”) in the 224th Judicial District Court of Bexar County, Texas, styled *Givens. v. T-Mobile USA, Inc.*, where it was assigned Cause No. 2022-CI-02525.
2. On February 11, 2022, Plaintiffs served T-Mobile with the Petition via its registered agent Corporation Service Company. Removal is timely because thirty days have not elapsed since T-Mobile was served. 28 U.S.C. §1446(b)(1); *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S.

344, 354 (1999) (holding that the thirty-day deadline to remove begins on the date the summons or citation is served even if the complaint is received at a prior date).

3. T-Mobile is, contemporaneously with the filing of this Notice, giving written notice of filing of this Notice of Removal to the clerk of the 224th Judicial District Court of Bexar County, Texas, and will serve a copy of the Notice of Removal on Plaintiffs.

4. In accordance with 28 U.S.C. § 1446(a), copies of all processes, pleadings, and orders signed by the state judge are attached hereto collectively as Exhibit A.

5. T-Mobile has also filed contemporaneously with this document a civil cover sheet.

6. **Ground for Removal: Federal Question:** This Court has original jurisdiction over this case under 28 U.S.C. § 1331 because Plaintiffs assert causes of action under the Federal Communications Act (47 U.S.C. § 201 et seq.) and the Computer Fraud and Abuse Act (18 U.S.C. § 1030). *See Pet. ¶¶ 57–86; see also Breuer v. Jim’s Concrete of Brevard, Inc.*, 538 U.S. 691, 691–92 (2003) (claims brought in state court under federal law are removable absent an express prohibition against removal). This Court has supplemental jurisdiction over the remaining nonfederal claims because those claims arise out of the same operative facts as Plaintiffs’ federal claims. *See* 28 U.S.C. § 1367; *see also Exxon Mobil Corp. v. Allapattah Servs.*, 545 U.S. 546, 558 (2005) (noting that “[s]ection 1367(a) is a broad grant of supplemental jurisdiction over other claims within the same case or controversy, as long as the action is one in which the district courts would have original jurisdiction”).

7. **Ground for Removal: Diversity:** This Court also has original jurisdiction over this case under 28 U.S.C. § 1332 because this is a civil action between citizens of different States and the matter in controversy exceeds \$75,000. As alleged in the Petition, Plaintiffs are citizens of

Texas, T-Mobile is a citizen of Delaware and Washington, and Plaintiffs seek damages up to \$250,0000 plus attorneys' fees, post-judgment interest and costs of suit. Pet. ¶¶ 1-2; *id.* Prayer for Relief.

PRAYER

WHEREFORE, Defendant T-Mobile US, Inc. prays that the above-described action now pending in the 224th Judicial District Court of Bexar County, Texas be removed to this Court.

Dated: March 4, 2022

Respectfully submitted,

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Counsel for Defendant T-Mobile USA, Inc.

CERTIFICATE OF SERVICE

This is to certify that on March 4, 2022, a true and correct copy of Defendant's Notice of Removal [Dkt. No. 1] with Exhibit A has been furnished to Plaintiffs' counsel of record via e-mail in accordance with the Federal Rules of Civil Procedure.

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/s/ S. Saliya Subasinghe
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